

DUNCAN MILLER

IBLA 74-122

Decided March 18, 1974

Appeal from decision (M 17649 and M 17650) of Montana Land Office, Bureau of Land Management, requiring stipulations for oil and gas leases.

Affirmed as modified.

Oil and Gas Leases: Generally--Oil and Gas Leases: Applications:  
Generally

An applicant for an oil and gas lease must execute reasonable, special stipulations required by the Bureau of Land Management and Geological Survey, acting in consultation with the appropriate surface management agency, for the purpose of protecting the surface of the leased lands and the environment. The financial burden of complying with environmental protection provisions is the sole responsibility of the lessee.

APPEARANCES: Duncan Miller, pro se.

OPINION BY ADMINISTRATIVE JUDGE RITVO

Duncan Miller has appealed from a decision of the Montana State Office, Bureau of Land Management, dated September 10, 1973, which required his consent to special stipulations imposed by the Bureau of Land Management, United States Department of the Interior, 1/ as a condition precedent to issuance of noncompetitive oil and gas leases on public lands within the Custer National Forest, Montana.

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1/ The special stipulations are those set out in "Department of Interior Stipulations" Form MSO 3100-24 B (9/73).

This case has previously been before the Board and was remanded for clarification regarding special stipulations. Duncan Miller, 11 IBLA 107 (1973).

In that opinion, the Board found that one of the stipulations then proposed would invest the District Ranger (Forest Service) with authority to withhold approval of any effort on the part of the lessee to exercise the rights conferred on the lessee by the lease. The Board found this kind of control over a lessee's enjoyment of his rights by an officer of another agency inconsistent with its earlier consideration of such stipulations in Duncan Miller, 6 IBLA 216, 79 I.D. 416 (1972).

The stipulations have been completely revised. The ones which Miller has now been required to execute as a condition to receiving the leases refer to "\*\* \* \* reasonable conditions, not inconsistent with the purposes for which this lease is issued \* \* \*." Moreover, the control and administration is accomplished by the Geological Survey, an agency of this Department, in consultation with the agency managing the surface, namely, the Forest Service in this case.

The Board finds that the revised stipulations are free of the provisions it found objectionable in the earlier ones and are acceptable. The appellant, however, objects to the stipulations on the grounds that they would cause an unfair economic burden on his operations. In the past, this Board has informed appellant that an applicant for an oil and gas lease must execute reasonable, special stipulations required by the Department of the Interior relating to protection of the land and surface resources as a condition precedent to issuance of such leases. Duncan Miller, 14 IBLA 185 (1974); Duncan Miller, 12 IBLA 199 (1973); Duncan Miller, 12 IBLA 185 (1973); Duncan Miller, 11 IBLA 1 (1973); Duncan Miller, 10 IBLA 133 (1973). The financial burden of complying with the environmental protection provisions is the sole responsibility of the lessee. Duncan Miller, 12 IBLA 185 (1973); Duncan Miller, 11 IBLA 1 (1973); Duncan Miller, 10 IBLA 133 (1973).

Both the decision and the special stipulations incorrectly state that the Bureau of Land Management has jurisdiction over the surface of the lands embraced within the leases. Upon inquiry to the Montana State Office, Bureau of Land Management, the Board was informed that the correct surface management agency is the Forest Service, Department of Agriculture. The stipulations are to be corrected to show the proper surface management agency.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed as modified.

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Martin Ritvo  
Administrative Judge

We concur:

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Edward W. Stuebing  
Administrative Judge

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Joan B. Thompson  
Administrative Judge

